

23.800

(iii) Furnished by the contractor for use by the Government.

(2) Agencies may use the clause with its Alternate I when there are sufficient EPEAT® silver- or gold-registered products available to meet agency needs.

(d)(1) Unless an exception applies in accordance with 23.704(a), insert the clause at 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products, in all solicitations and contracts when personal computer products will be—

(i) Delivered;

(ii) Acquired by the contractor for use in performing services at a Federally controlled facility; or

(iii) Furnished by the contractor for use by the Government.

(2) Agencies may use the clause with its Alternate I when there are sufficient EPEAT® silver- or gold-registered products available to meet agency needs.

[72 FR 73217, Dec. 26, 2007. Redesignated and amended at 76 FR 31400, May 31, 2011; 79 FR 35862, June 24, 2014]

Subpart 23.8—Ozone-Depleting Substances

SOURCE: 60 FR 28500, May 31, 1995, unless otherwise noted.

23.800 Scope of subpart.

This subpart sets forth policies and procedures for the acquisition of items which contain, use, or are manufactured with ozone-depleting substances.

[60 FR 28500, May 31, 1995, as amended at 61 FR 31645, June 20, 1996]

23.801 Authorities.

(a) Title VI of the Clean Air Act (42 U.S.C. 7671, *et seq.*).

(b) Section 706 of Division D, Title VII of the Omnibus Appropriations Act, 2009 (Pub. L. 111-8).

(c) Executive Order 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management.

(d) Executive Order 13514 of October 5, 2009, Federal Leadership in Environmental, Energy, and Economic Performance.

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(e) Environmental Protection Agency (EPA) regulations, Protection of Stratospheric Ozone (40 CFR Part 82).

[76 FR 31400, May 31, 2011]

23.802 [Reserved]

23.803 Policy.

(a) It is the policy of the Federal Government that Federal agencies:

(1) Implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone; and

(2) Give preference to the procurement of alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by lessening the depletion of ozone in the upper atmosphere.

(b) In preparing specifications and purchase descriptions, and in the acquisition of supplies and services, agencies shall:

(1) Comply with the requirements of Title VI of the Clean Air Act, Section 706 of Division D, Title VII of Public Law 111-8, Executive Order 13423, Executive Order 13514, and 40 CFR 82.84(a)(2), (3), (4), and (5); and

(2) Substitute safe alternatives to ozone-depleting substances, as identified under 42 U.S.C. 7671k, to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1), except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR 82.4(r). EPA's Significant New Alternatives Policy (SNAP) program (available at <http://www.epa.gov/ozone/snap>) has a list of safe alternatives to ozone-depleting substances.

[60 FR 28500, May 31, 1995, as amended at 61 FR 31645, June 20, 1996; 68 FR 43869, July 24, 2003; 76 FR 31400, May 31, 2011]

23.804 Contract clauses.

Except for contracts that will be performed outside the United States and its outlying areas, insert the clause at:

(a) 52.223-11, Ozone-Depleting Substances, in solicitations and contracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances.

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(b) 52.223-12, Refrigeration Equipment and Air Conditioners, in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers.

[61 FR 31645, June 20, 1996, as amended at 68 FR 28083, May 22, 2003]

Subpart 23.9—Contractor Compliance With Environmental Management Systems

SOURCE: 76 FR 31400, May 31, 2011, unless otherwise noted.

23.900 Scope.

This subpart implements the environmental management systems requirements for contractors.

23.901 Authority.

(a) Executive Order 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management.

(b) Executive Order 13514 of October 5, 2009, Federal Leadership in Environmental, Energy, and Economic Performance.

23.902 Policy.

(a) Agencies shall implement environmental management systems (EMS) at all appropriate organizational levels. Where contractor activities affect an agency's environmental management aspects, EMS requirements shall be included in contracts to ensure proper implementation and execution of EMS roles and responsibilities.

(b) The contracting officer shall—

(1) Specify the EMS directives with which the contractor must comply; and

(2) Ensure contractor compliance to the same extent as the agency would be required to comply, if the agency operated the facilities or vehicles.

23.903 Contract clause.

The contracting officer shall insert the clause at 52.223-19, Compliance With Environmental Management Systems, in all solicitations and contracts for contractor operation of Govern-

ment-owned or -leased facilities or vehicles, located in the United States. For facilities located outside the United States, the agency head may determine that use of the clause is in the best interest of the Government.

Subpart 23.10—Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements

SOURCE: 68 FR 43869, July 24, 2003, unless otherwise noted.

23.1000 Scope.

This subpart prescribes policies and procedures for obtaining information needed for Government—

(a) Compliance with right-to-know laws and pollution prevention requirements;

(b) Implementation of an environmental management system (EMS) at a Federal facility; and

(c) Completion of facility compliance audits (FCAs) at a Federal facility.

23.1001 Authorities.

(a) Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001-11050 (EPCRA).

(b) Pollution Prevention Act of 1990, 42 U.S.C. 13101-13109 (PPA).

(c) Executive Order 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management.

(d) Executive Order 13514 of October 5, 2009, Federal Leadership in Environmental, Energy, and Economic Performance.

[68 FR 43869, July 24, 2003, as amended at 76 FR 31401, May 31, 2011]

23.1002 Applicability.

The requirements of this subpart apply to facilities owned or operated by an agency in the customs territory of the United States.

23.1003 Definitions.

As used in this subpart—

Federal agency means an executive agency (see 2.101).

[68 FR 43869, July 24, 2003, as amended at 76 FR 31401, May 31, 2011]